



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/145775

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 06, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Waukesha County Health and Human Services in regard to Child Care, a hearing was held on February 20, 2013, at Waukesha, Wisconsin.

The issues for determination are whether the agency correctly denied Petitioner's child care application for failure to provide verification and whether Petitioner's eligible for backdating to first application period after denial and reapplication.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By:

Waukesha County Health and Human Services  
500 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On October 2, 2012 Petitioner submitted an application for child care benefits.
3. On October 11, 2012 the agency conducted a phone interview with the Petitioner.

4. On October 12, 2012 the agency sent Petitioner a Notice of Action and Proof Needed indicating that she was required to sign her application as well as provide additional verification of employment, residence and identity. The due date for the requested action and information was October 22, 2012.
5. On October 17, 2012 the agency placed a call to Petitioner to explain that proof of address and verification of earnings was still needed.
6. The agency received the employment and identity information timely but not the address verification.
7. The agency issued a denial notice on November 7, 2012 that indicated that Petitioner's application for child care had been denied for failing to provide all items of verification.
8. The agency did not receive the requested verification of address until November 12, 2012.
9. Agency case notes indicate that Petitioner reapplied for child care benefits in November 2012 and that eligibility was backdated to Sunday, October 28, 2012.
10. Petitioner's appeal indicates that that her child was in daycare beginning October 18, 2012.

### DISCUSSION

Wis. Stat § 49.155 authorizes the Department of Children and Families (Department) to operate a child care subsidy program for Wisconsin Works (W-2) recipients and working parents. See also, W-2 Manual, 15.2.0. The Department has a *Wisconsin Shares Child Care Manual (Manual)* that provides the specific policies for the program. The Manual may be viewed on line at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm>.

The child care subsidy program's authorizing statute contains financial and nonfinancial eligibility criteria. If applicant parents do not meet the nonfinancial and financial eligibility criteria, then benefits cannot be granted. Demonstrating eligibility occurs via the verification process.

There are mandatory verification items:

#### 1.7.2 Required Verification Information

The eligibility determining agency must verify the level of income, approved activity participation, and all of items listed below for all parents in the Assistance Group (adult and teen parents):

- Identity and age;
- Residence;
- Marital status;
- Citizenship status or alien status of the children;
- Social security number or SSN application of the children;
- Income sources and amounts;
- Household composition (including temporary absence of children);
- Approved activity participation (See Approved Activities Section); and
- The Federal Employer Identification Number (FEIN) of employers for participants in unsubsidized employment as an approved activity.

*Wisconsin Shares Child Care Assistance Manual (Manual), §1.7.2.*

An agency has an obligation to request verification in writing:

#### 1.7.4 Informing Applicant of Items Needed

The applicant must be informed in writing of the verification items that are needed along with a due date.

*Wisconsin Shares Child Care Assistance Manual (Manual), §1.7.4.*

Once requested, the applicant/recipient has an obligation to provide the verification and has 7 days within which to provide that verification or inform the agency that help is needed to obtain information:

#### 1.7.3 Responsibility for Providing Verification

The Wisconsin Shares child care assistance applicant has the primary responsibility for providing verification and resolving questionable information.

*Manual, §1.7.4.*

\*\*\*

#### 1.4.6 Applicant Must Provide Verification within Seven (7) Days

The applicant provides the required verification for application within seven (7) business days unless the eligibility determining agency extends the verification timeline (see the Eligibility Determination Section).

*Manual, §1.4.6.*

\*\*\*

#### 1.7.6 Applicant Unable to Produce Verification

If the applicant is unable to produce the requested verification items, or requires assistance to do so, the applicant agency must assist the applicant in obtaining the verification. To do this, the agency may need the applicant's signature on a written *Release of Information* form to obtain the information from a third party.

*Manual, §1.7.6.*

If the agency does not receive the verification, or contact from the applicant indicating that they cannot obtain verification, a denial notice is generated:

#### 1.3.4 Missing Verification

If verification has not been received from the applicant within seven (7) business days, the agency should code the missing verification item as "Not Verified" in Cares Worker Web (CWW) and run eligibility. This will generate a Denial Notice alerting the applicant the case is being denied pending the receipt of the missing verification.

*Manual, §1.3.4.*

Once the agency has the verification or, conversely, did not receive the verification it must proceed expeditiously to determine eligibility:

#### 1.3.6 Eligibility Determination

Once the verification has been determined to be complete, the agency has seven (7) business days to determine eligibility. Eligibility may be backdated only to the first of the month of the application filing date, unless the applicant requested an intake appointment and was given an appointment for the following month; in this situation eligibility may be backdated to the first of the month that the agency received a signed request for child care assistance (RFA or DWSP-14880).

*Manual, §1.3.6.*

Petitioner's appeal indicates that she should have been told earlier that she needed to file a new application so that eligibility for a backdated period to October 18, 2013 was available. The agency declined to open the Petitioner's child care benefits back to October 18, 2012, because child care eligibility can only be backdated as follows:

At initial eligibility, an authorization may be backdated only to the first of the month of the current eligibility period, or to the Sunday that is six days prior to the first of the eligibility month.

*Manual, § 3.6.28.*

Here Petitioner was sent a notice that the informed her of the verification that she needed, among other things, to submit evidence of residency. That did not get submitted within the time limit allowed. Thus the agency correctly denied the initial application. Petitioner did reapply promptly but there is no authority to backdate eligibility earlier than the Sunday that is six days prior to the first of the eligibility month. That is what the agency did here. Neither the agency nor the Division of Hearings and Appeals has the equitable authority to provide benefits contrary to the applicable policy.

### **CONCLUSIONS OF LAW**

1. That the agency correctly denied Petitioner's initial child care application of October 2012 for failing to provide verification a timely basis.
2. That the agency correctly backdated Petitioner's child care eligibility upon reapplication to the earliest date possible; a Sunday, six days prior to the first day of the eligibility month.

**THEREFORE, it is**

**ORDERED**

That the petition be, and hereby is, dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

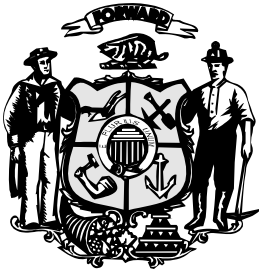
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 29th day of March, 2013

---

\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 29, 2013.

Waukesha County Health and Human Services  
Child Care Benefits